

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
GREENSBORO DIVISION
Civil Action No: 1:05CV00955

VOLUMETRICS MEDICAL
IMAGING, LLC,

Plaintiff,

vs.

TOSHIBA AMERICA MEDICAL
SYSTEMS, INC., MEDISON
AMERICA, INC., AND SIEMENS
MEDICAL SOLUTIONS USA, INC.,

Defendants.

MOTION FOR ORDER ESTABLISHING
PROCEDURE FOR MARKMAN
HEARING

NOW COME Defendants Toshiba America Medical Systems, Inc. (“TAMS”), Medison America, Inc. (“Medison America”) and Siemens Medical Solutions USA, Inc. (“Siemens”) (collectively referred to herein as “ Defendants”), through counsel, and hereby move the Court for an order governing the procedure for the claim construction proceedings commencing May 19, 2008 as follows:

1. Tutorials by all parties regarding the technologies at issue;
2. Opening Statements by VMI and Defendants;
3. Argument regarding the proper construction of the disputed claim terms of United States Patent No. 5,546,807 (the “807 Patent”);
4. Argument regarding the proper construction of the disputed claim terms of United States Patent No. 6,276,211 (the “211 Patent”); and

5. Argument regarding the proper construction of the disputed claim terms of United States Patent Nos. 4,596,145 (the “‘145 Patent”) and 4,694,434 (the “‘434 Patent”).

Defendants further move the Court for an order providing that TAMS and Siemens will not be required to participate in claim construction proceedings related to the ‘145 Patent and ‘434 Patent as VMI does not allege that TAMS or Siemens infringe the claims of the ‘145 or ‘434 Patents. Finally, Defendants move the Court for an order providing that TAMS will not be required to participate in claim construction proceedings related to the ‘211 Patent as VMI does not allege that TAMS infringes the claims of the ‘211 Patent. A proposed Order is attached hereto as Exhibit A.

In support of this motion, Defendants rely on the Memorandum in Support submitted contemporaneously herewith.

Dated May 7th, 2008

Respectfully Submitted,

Counsel for Defendant Toshiba America
Medical Systems, Inc.:

/s/ Timothy G. Barber
Timothy G. Barber (NCSB No. 12851)
tim.barber@wcsr.com
K. Matthew Miller (NCSB No. 27974)
matt.miller@wcsr.com
WOMBLE CARLYLE SANDRIDGE
& RICE, PLLC
One Wachovia Center, Suite 3500
301 South College Street
Charlotte, NC 28202-6037
Telephone: 704 331-4937

Henry C. Bunsow

Denise M. DeMory
Matthew F. Greinert
HOWREY LLP
535 Market Street, Suite 3600
San Francisco, CA 94105-2708
Telephone: (415) 848-4900

Counsel for Defendant Siemens Medical
Solutions USA, Inc.

John M. Desmarais
Jon T. Hohenthanner
Andrew G. Heinz
KIRKLAND & ELLIS LLP
153 East 53rd Street
New York, NY 10022
Telephone: (212) 446-4800

Irving M. Brenner (NCSB No. 15483)
MCGUIRE WOODS, LLP
201 North Tryon Street, Suite 3000
Charlotte, NC 28202
Telephone (704) 343-2000

Counsel for Defendant Medison America, Inc.

James A. Medford (NCSB No. 2960)
jim.medford@smithmoorelaw.com
Gregory G. Holland (NCSB No. 19069)
greg.holland@smithmoorelaw.com
Richard A. Coughlin (NCSB No. 19894)
rick.coughlin@smithmoorelaw.com

SMITH MOORE LLP
300 North Greene Street, Suite 1400
P.O. Box 21927
Greensboro, North Carolina 27420
Telephone: (336) 378-5200
Facsimile: (336) 378-5400

William F. Abrams
william.abrams@bingham.com

Raymis H. Kim
raymis.kim@bingham.com
Patrick T. Weston
patrick.weston@bingham.com

BINGHAM McCUTCHEN LLP
1900 University Avenue
East Palo Alto, CA 94303-2223
Telephone: (650) 849-4400
Facsimile: (650) 849-4400

CERTIFICATE OF SERVICE

I hereby certify that I caused a copy of the foregoing *Defendants Motion for Order Establishing Procedure for Markman Hearing* was filed with the Court's ECF system and additionally will be served upon each of the parties to this action pursuant to the Stipulation Regarding Service Via E-Mail as follows on this 7th day of May, 2008:

Volumetrics Medical Imaging, L.L.C.:

joe.bracken@alston.com
kirk.bradley@alston.com
mike.connor@alston.com
cyndi.elliott@alston.com
angela.james@alston.com
mike.kenny@alston.com
rick.mcdermott@alston.com
chris.riley@alston.com
karen.shadden@alston.com
anne.randall@alston.com
kevin.obrien@alston.com
stephen.hladik@alston.com
debra.gleason@alston.com
lisa.bojko@alston.com
mkellogg@khhte.com
mhansen@khhte.com
khuff@khhte.com
jrozendaal@khhte.com
jhall@khhte.com
jrichardson@khhte.com
mjoffre@khhte.com
rstern@khhte.com
czeender@khhte.com
lkelly@khhte.com
kfetterman@khhte.com
grapawy@khhte.com

Medison America, Inc.:

Greg.Holland@smithmoorelaw.com
Jim.Medford@smithmoorelaw.com
Rick.Coughlin@smithmoorelaw.com
Lisa.Shortt@smithmoorelaw.com
William.Abrams@bingham.com
Raymis.Kim@bingham.com
Patrick.Weston@bingham.com

Siemens Medical Solutions, USA, Inc.:

Irving.Brenner@hmw.com
jhohenthaner@kirkland.com
cmizzo@kirkland.com
jloy@kirkland.com
aheinze@kirkland.com

/s/ Timothy G. Barber